

Investigative Summary

Case: S2020-0012
Date: July 12, 2020
Author: Captain S. Teerlink

Internal Affairs Document – For Internal Use Only – Not Public Record

Internal Affairs Summary: Officer Involved Critical Incident

On May 23, 2020, at 0206 hours, officers received a call for service at 271 W 900 South, Salt Lake City, Utah, for threats that just occurred where a handgun was pointed at the victim. Officers located the suspect and challenged him. The suspect fled and the officers pursued on foot. The pursuit terminated at about 278 West 900 South. The suspect tripped and dropped a handgun three times. As officers were ordering the suspect multiple times to “drop the gun,” “drop it,” “show me your hands,” the suspect instead took the time and overt action to pick up the gun three times, which was slowing down his attempt to escape. Two officers perceived an imminent threat and responded with lethal force to stop that threat. The suspect died of his injuries at the scene.

Investigators:

Unified Police Department (OICI protocol)
Captain S. Teerlink (Internal Affairs)
Sergeant T. Lowe (Internal Affairs)

Subject Officers:

Officer N. Iversen
Officer K. Fortuna

Incident Description:

Officers received a call for service at 271 W 900 South, Salt Lake City, Utah, for threats that just occurred where a handgun was pointed at the victim in room number 3. As officers arrived, they received an update from a second complainant/victim in room 15 that reported that two armed suspects had entered their room. Although unknown to the officers at the time, the suspect had also reportedly committed a violent aggravated robbery where he struck the victim with the handgun. Also unknown to the officers was a third victim that the suspect had robbed at gunpoint and reportedly attempted to abduct prior to that victim successfully fleeing. The officers also did not know that the suspect was a convicted felon on parole and would likely have to go back to prison for 15 years for the previous robbery if he was caught along with any new charges for multiple felonies with a gun on his crime spree this evening. Although the officers did not know some of these facts, these are important to note as they do relate to the possible mindset of the fleeing suspect.

Officers located the suspect and challenged him by saying “show me your hands.” The suspect fled and the officers pursued on foot south to the Trails parking lot, east to the alley, and north across 900 S. The foot pursuit lasted for close to 60 seconds and then terminated at about 278 West 900 South. The suspect tripped and dropped a handgun three times as he entered that parking lot. As officers were ordering the suspect multiple times to “drop the gun,” “drop it,” “show me your hands,” he instead took

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the time to pick the gun back up three times. Two officers perceived an imminent deadly threat and responded with lethal force to stop that threat. The suspect died of his injuries at the scene.

The Officer-Involved Critical Incident Protocol was invoked, with Unified Police Department as the primary investigative body. The incident was subsequently reviewed by the Salt Lake County District Attorney's Office. The Salt Lake City Civilian Review Board is currently reviewing the incident and is anticipated to finish their review on 7/14/2020.

Investigative Materials:

- involved officer interviews
- witness officer interviews
- follow-up interviews
- police reports from SLCPD
- police reports from OICI (UPD Case)
- investigative reports from OICI team
- body-worn camera footage from the involved officers as well as from the witness officers
- Granary Storage business security camera footage
- photographs (from Crime Lab and ME)
- 911 Computer Aided Dispatch system report with notes (showing the calls for service along with updates and notes as the details were reported through 911 or the radio to dispatch)
- dispatch recordings (911 calls as well as radio traffic)
- District Attorney's Final Clearance Letter
- Internal Affairs history for the involved officers
- recent qualification cards for involved officers

I have not yet reviewed the following:

- ME final report (not yet available)
- ME Toxicology Report (not yet available).

Investigation results:

While the Medical Examiner's report and the toxicology report are not yet completed, Internal Affairs has reviewed the other relevant information available.

Officer Iversen was in the correct patrol uniform and appears to have all his necessary equipment. Officer Iversen had his body camera activated and recording from the beginning of the call without interruption until he was escorted from the scene. Officer Iversen was properly qualified on the firearm he used and had the proper ammunition.

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Officer Fortuna was in the correct patrol uniform and appears to have all his necessary equipment. Officer Fortuna had his body camera activated and recording from the beginning of the call without interruption until he was escorted from the scene. Officer Fortuna was properly qualified on the handgun and had the proper ammunition. The most recent qualification did not show the serial number of the weapon for Officer Fortuna, however, the previous year's duty qualification did have the serial number of the gun that is consistent with the gun in this case.

All witness officers also had their body cameras recording as per policy. The OICI protocol was invoked as soon as the suspect was no longer a threat. The involved officers were quickly escorted from the scene to the Public Safety Building. The supporting officers immediately called for medical assistance, began CPR, checked for any other injuries, and initiated scene security complete with a major incident log. Officers continued CPR until relieved by medics and were professional in their conduct as they secured a very complicated crime scene.

Sergeant North conducted a walk-through of the scene to assist in the administrative investigation and policy review. Internal Affairs completed the review and did not conduct any additional interviews since the Officer-Involved Critical Incident team and District Attorney's office had already conducted thorough interviews that satisfied Internal Affairs' questions.

Officers Iversen and S. Killgore both pursued the suspect on foot. As they ran past Sgt. Schneider's police vehicle, he also joined the pursuit on foot. When the suspect crossed 900 South, Officer Iversen was joined by Officer Fortuna who had just exited his police vehicle. As the suspect was stumbling and picking up the gun, several other officers were arriving in that immediate area in police cars with lights and sirens activated so the suspect would reasonably know that it was the Police pursuing him. Multiple officers gave multiple commands to the suspect to "drop the gun," "drop it," "show me your hands."

Instead of being motivated to escape or surrender the suspect instead escalated the situation by taking the time and very overt action to recover his firearm each of the three times that he stumbled and fumbled the weapon. The officers both stated that they were in fear for their life and the lives of the other officers in that area. Both also stated that the suspect was placing citizens in imminent danger of serious bodily injury or death. Both involved officers stated that they were concerned that the suspect had gripped the gun consistent with a firing grip and was heading toward the corner of the building, which would give him the tactical advantage of having cover while leaving the officers in an open and exposed area.

Additionally, both officers expressed concern regarding the citizens in the area (since the Trails club had just closed and occupants were coming outside into that area). Both officers also mentioned that the suspect could also easily force his way into a residence in that area as well. Allowing the suspect to gain distance would place citizens at risk and could exacerbate the incident by causing a carjacking or a home invasion with a potential barricade or hostage situation. The suspect's action that evening placed many officers and citizens in extreme danger.

The D.A. has officially ruled that the officers were justified in their use of deadly force since their actions met the requirements of State Code 76-2-404 regarding the justification of the use of deadly force. Salt

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Lake City Police Policy 300.5 is more restrictive than the State Code and Internal Affairs reviewed the case to ensure that our more restrictive policy was properly adhered to.

SALT LAKE CITY POLICE 300.5 DEADLY FORCE APPLICATIONS

Use of deadly force is justified in the following circumstances:

- a. *An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.*
- b. *An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer has probable cause to believe that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended.*

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:

1. *The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.*
2. *The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.*

A verbal warning should precede the use of deadly force, where feasible.

In addition to the deadly force policy, the Salt Lake City Police Department Code of Ethics also discusses the importance of using the greatest restraint when using necessary force.

The multiple camera angles with various recordings, the multiple witness statements, and other evidence collected are all consistent with the statements of Officers Iversen and Fortuna. It is very clear that the officers were in the lawful performance of their duty and the suspect was an imminent threat.

Officer Iversen used tremendous restraint as he observed the subject drop and pick up an item that made a metallic sound when it hit the ground yet he did not engage the subject until he had repeatedly ordered the subject to drop it and was able to verify that it was in fact a gun that the suspect was holding.

Officer Fortuna also clearly observed the gun and imminent danger. Officer Fortuna also showed restraint in taking the time to give multiple orders and give the suspect time to comply and drop the weapon.

The officers gave the suspect repeated orders and time to comply and could reasonably believe that the deadly force was necessary to protect himself or others from what he reasonably believes would be an

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imminent threat of death or serious bodily injury. Additionally, the officers could reasonably believe that deadly force was necessary to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer has probable cause to believe that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended.

Based on the facts in this situation:

Officer Iversen's use of deadly force in this incident is determined to be **In Policy**

Officer Fortuna's use of deadly force in this incident is determined to be **In Policy**

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Training, Coaching and Counseling opportunities to improve:

The following are minor issues that we can look at for improvement or coaching/counseling. It is imperative that we look at any areas that we can improve our response and the safety of all involved. This is an initial list that may be added to as we have more discussions and reviews.

1. On initial contact the officers observed the suspect and shined a flashlight on him and said “hey” and “show me your hands.” Officers did not identify themselves as Police Officers. As the suspect fled, he ran past a marked police car and then several marked police cars with lights and sirens arrived in the area. In this case the suspect would have known that it was officers chasing him, but it is a training issue to ingrain that verbal identification so that it is an automatic response to a dynamic situation.
2. When the officers first observed the suspect, it is unclear if there was an opportunity to close the distance before announcing their presence or to get a third unit to help contain the suspect. This is simply an area of discussion since there is not enough information from the video to know if this was a feasible option or if it could have caused others to be in danger. Containing the suspect in that area could have caused a bigger problem since he may have seen he was trapped and taken a hostage instead of fleeing.
3. During the incident and in the “heat of the moment,” some inappropriate language was used by officers. When the threat was gone, the officers were professional. It is difficult to train this issue since training does not usually invoke the same automatic responses as these types of critical events do.
4. Officers need to ensure that when they do their annual training/qualifications, that they are completing all the information required. While we had a valid qualification card, the serial number of the firearm was missing.
5. Several officers who were near the incident and witnessed the shooting had their equipment inspected as a standard procedure. During this inspection, it was found that several officers did not have fully loaded magazines and one had two different types of ammunition in his magazine. The two involved officers had the correct ammo and had fully loaded ammo.